

THE
PROGRESS and PRACTICE
OF A
MODERN ATTORNEY;

EXHIBITING THE
Conduct of Thousands towards Millions!

TO WHICH ARE ADDED, THE
DIFFERENT STAGES OF A LAW SUIT,
AND ATTENDANT COSTS,

WITH
INSTRUCTIONS TO BOTH CREDITORS AND DEBTORS;

TOGETHER WITH
SELECT CASES

OF
INDIVIDUALS WHO HAVE SUFFERED
FROM THE
CHICANE OF PETTYFOGGING ATTORNIES,
AND
THE OPPRESSION

WHICH
FLOWS FROM THE PRESENT LAW PRACTICE :
CONCLUDING WITH
ADVICE TO YOUNG TRADESMEN.

PART I.

“ Talk of Oppression in any other Shape but this !
“ 'Tis but a Bugbear !”

“ It is necessary to know Villany—not to practise it; but that you may guard against
“ those who may practise it to your Hurt.”

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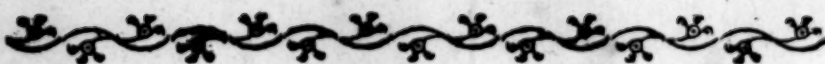
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PRICE TWO SHILLINGS.

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ADVERTISEMENT.

THE Author finding it impracticable to publish this Work as soon as he promised, is now induced to divide it into Two Parts. This he has done at the desire of a number of his Subscribers, who have repeatedly requested him to extend it beyond the limits which he first proposed. The alteration of the original price, is, therefore, easily accounted for.



PART II. WILL CONTAIN

CHAP. III. continued. On Sheriffs' Officers—their Fees, &c.

Fees on Habeas Corpus

On Conveyancing

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An Account of the bailable Writs and Executions which issued in Middlesex, in 1788, 1789, and 1793—with an average Statement of the Writs issued throughout all England, and attendant Costs

State of the present Custom which sanctions Arrests—

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Advice to young Tradesmen



✂ The Engraved Frontispiece will be given (gratis) with the SECOND PART.

INTRODUCTION.

THE intelligent Philanthropist, when he surveys the numberless ills that inordinate Self-love, not only inflict on so large a portion of the honest and unsuspecting part of mankind, but even entail them, so often on their posterity, is impressed with sentiments of the liveliest sympathy and deepest regret. The wants of nature are few, and easily satisfied. But the progress of luxury keeps pace with that of civilization; and even at the conclusion of the 18th century, man, with all his boasted refinement, continues still to prey on man.

The human race are subject to different kinds of oppression, in the different stages of civil society: and the English, as well as other European nations, have, in different periods, groaned under—arbitrary power—the terrors of superstition, and—the chicanery of the law. To speak in a familiar style, the people of England have been

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War-ridden, they have been Priest-ridden, and now they are Law-ridden. From the first of these yokes, our ancestors delivered themselves by their valour—and from the second, by the manly exercise of their own judgment. Is it possible, then, that Englishmen, who have opened their eyes to their true interests in almost every shape, should put up with the gross impositions which they experience every day under the false mask of Law and Justice, practised upon them by a set of men who, necessitous for the most part, set their wits at work to rob and plunder their fellow-citizens, under the pretence of their being protected by the Courts; at the same time, that they know the poor and needy have it not in their power to call them to account?

If the expences attendant upon defending actions at law were meant to repress a spirit of litigation—to enforce, the speedy payment of debts, or to spur individuals on to industry and exertion in their several avocations---arguments generally made use of by interested professional men---no such consequences would result from them.

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Where a spirit of litigation exists between both parties, expence is out of the question. Enforcing the speedy payment of debt, is productive, nine times out of ten, where the debtor is honest, of his ruin. He neglects his business in order to collect debts, when the time of credit has not expired; disoblige and loses his best customers; and, if a tradesman, the work done in his absence, is inferior in point of quality. Were the expences which he incurs trifling, he might surmount the inconvenience; but where they accumulate in many thousands of instances beyond the original debt, the tradesman once involved in a labyrinth of law, finds that one action begets another so quickly, that the profits of no business, however great, can possibly withstand so gigantic an assailant.

If it be urged, that individuals are spurred on to industry and exertion, by means of enormous costs, let us examine how this operates in general. For the first two or three times, a tradesman may not regard the effects of arrests. But when he begins to calculate his loss of time, his expences, his

loss of credit, trouble to his friends, suspicious enquiries, difficulty of discounting even good bills, premium for agency, public-house expences, and neglect of business at home, at the end of one year, the aggregate loss will be found immense---When he sees, too, the general want of principle which pervades every class he has any connection with, in this blessed assemblage of discounters, attornies, and bailiffs, which last description of men is commonly the best, his morals are unquestionably in a fair way of being greatly improved.

Should the Debtor still retain his integrity as an honest man, what must his feelings be, when he is lavishly, though unwillingly, spending as much property in one day as would maintain his family in two! What must he think of that government, which, from suffering such impositions to exist in what is called a free state, prevents him from providing for his family, in suffering a set of leeches to fasten upon him; while, perhaps, the property earned by the owner, by the labour of weeks, but wrested from him in five minutes by a few dashes
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of the pen, is spent upon the most abandoned prostitutes, pampered in luxury, at the expence of a virtuous wife and children, pining in misery?

Whenever a man, struggling to get forward, has his credit blasted by the fangs of the law, unless he possesses uncommon fortitude and virtue, he is apt, from motives of even a generous nature, to defraud his creditors; for he begins to think, that if he must go to prison, he cannot see his wife and children starve. The severity of the law, I contend, is calculated to make a man dishonest: And as there is no discrimination between the honest debtor and the rogue, the generality satisfy themselves with the means of *living*, regardless of consequences. ---I wish I could open the eyes of the Legislature to this great evil.

Perhaps it is owing, in a great measure, to the roguery of the generality of those who run in debt, that debtors have universally a bad character. Possibly too, Attornies have been denominated *keen fellows*, *cutters up*, and *butchers*, from their being so very clever in bringing these rogues of debtors

debtors *to book*, as it is termed. As the following Treatise is meant to meet the understanding of Attornies in general, I mean to give this public notice to my readers, that I shall bring it to a level with *their* comprehension ; and as numbers of them do not know the meaning of the very writs which they issue, I intend by plainness of speech, that they shall not stand in need of an interpreter.

I know that many Attornies who may read this Treatise, will exclaim, “ I am certain I am alluded to.”—The portrait in general, ’tis true, is already delineated so exactly, and in such lively colours, as to need no additional touches from my pencil : it is such a close copy that thousands may fit for the same picture, and every one of them swear it is a *fac simile* of his own dear-self.

Let it not be said that I have it in contemplation, to throw the most oblique reflection on the profession in general, which is one of the most respectable in the universe. All ranks ought to bend to the Law, which in regard to society, is supreme. King, Lords, and Commons, were instituted for framing

framing and carrying into execution—the Law.—I sincerely wish they would attend to the abuses in its practice.

If it be a crime to arouse the Legislature to a sense of humanity; to recall to the recollection of Englishmen, as a nation famed for feeling, those seemingly-forgotten principles which dignified them—by pointing out suffering thousands, who have been ruined by the present infamous abuse of the law—if it be a crime, and if good results to my fellow-creatures, in consequence of my observations, I will cheerfully undergo the punishment.

If it be asked, what could possibly induce any person, possessed of common sense, to wage war against so keen, powerful, and numerous a body of men as Attornies, and who have it so much in their power to crush even hundreds; supposing a combination of them for this purpose, devoid of principle; my answer is this: When an evil arises in society, to an insufferable pitch of atrocity, there are always (thanks to Providence) some men ready to attack Oppression, even in its most formidable shape!

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In fact, whatever blame may be imputed to respectable Attornies in making out bills of costs; it cannot be imputable to *them* with propriety; the charges being regulated by the Courts: but it does not follow, that these costs are not exorbitant and oppressive. If, therefore, there is any truth in the maxim, " That the errors and " sufferings of the People are from their " Governors," it is high time those governors should enquire, whether the People do not both *see* and *feel*.

All I shall add at present is, that however the following picture of the present Law Practice may appear to exceed credibility, the Public may rest assured, that nothing has been inserted but from such authority as may be relied on.

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WHEN justice was administered gratuitously, as in many states it formerly was, few abuses could exist. The judge having a knowledge of either of the contending parties, was a circumstance that would have put him more upon his guard. Justice must have then flowed in purer channels than at present. Even in these days, a relick of the above ancient custom exists in defraying the salaries of the judges out of the civil list.

“Reason,” my Lord Coke tells us, “is the *very life and soul* of the law, and what is contrary to it, is *unlawful*. Where maxims of the law admit of any difference, those are to be preferred which carry with them the more perfect and excellent *reason*.” Coke upon Littlet. 97. 183.

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Where the *reason* of the law, then, once ceases, the law itself, or the intention of the law, must cease also, and degenerate into oppression; because reason is the foundation of all law.

This will, no doubt, hold good as to the principle of law; but it is not to be inferred, that *law practice* is to be included in the principle, under the general head of what is termed—LAW.

If, therefore, the present law practice be universally reprobated, it is surely worthy of enquiry, from whence the abuses have originated---how they exist---and how they may be remedied.

One circumstance which has occasioned a considerable enhancement of expence, is—almost every part of a law process being stamped; as also the Courts at Westminster having a jurisdiction to determine causes for 40s. where, if the matter is litigated, the costs have amounted to 100l. and upwards.

A review of the progress of stamping law processes, while it accounts for the existence of one grievance, will, at the same time, impress the benevolent mind with no very favourable idea of the wisdom or sound policy of Government, since the Restoration; when it is recollected, that nine-tenths of that revenue, are levied upon the necessitous and distressed part of the community. Of course, *Reason* must be at variance with this part of the system.

If it be asked, what is the greatest grievance that society labour under? I readily answer---the abuse of the law, by the practice of pettifogging attornies. To the exposure of *this* practice I shall chiefly confine myself.

As it would be extraneous, therefore, to the
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author's purpose to enquire into the origin of the present law practice, suffice it to say, that the very meaning of the word *attorney*, the principal law agent, denotes factor, doer, substitute, or actor for another person, in a matter where that person cannot act for himself; hence the dignity of the office. Attornies occupy in society, a place of trust and confidence which no other set of men can enjoy; consequently in proportion as they discharge their duty, or are guilty of any breach of trust, they deserve the approbation or reproach of their fellow-citizens.

Dishonesty is a contemptible vice in any man, but in an attorney, in its consequences most injurious: because, the party injured having committed his affairs to him as his agent, cannot obtain redress, if he deceives or abuses his confidence, as in the case of common frauds, without an expence that makes the cure worse than the disease: and, highly as I respect Lord Kenyon for his attention to the interests of the community, in bringing pettifoggers to condign punishment, I cannot help observing, that the expensive mode of accomplishing it, will by no means answer the purpose. Were a subscription to be set on foot, for the express purpose of defraying the expences attendant upon an application to the respective Courts, great good would result from it. But why eternally load a generous public for remedying abuses, which were they properly provided against, would never exist? There is scarcely a benevolent institution in England, supported by subscription, but has been occasioned in a string of consequences, principally by the depredations of the law and lawyers.--Whether we contemplate

the Society for relieving Persons confined for Small Debts--the Asylum--the Magdalen--the Lying-in Hospitals, or the swarms of poor which fill our work-houses, to the beggars which cover our streets, or were it possible to examine the individuals, or could many thousands of infants list out the cause of their wretched situations--the answer from the one half would be, "My father was ruined by law."

Nay, let us confine ourselves to those merchants and tradesmen who survive the shock occasioned to their circumstances by the dreadful ravages of the law--were, for instance, a rough calculation made by the tradesmen of London of the money they are annually out of pocket, in suing and being sued, the report would exceed all credibility.

This circumstance naturally suggests a reason why numbers of attornies rise in a few years, from the lowest obscurity, to situations to which respectable tradesmen, toiling all their life-time in a series of industry and sobriety, can never arrive.

As a proof of this, I beg leave to insert a short picture, which, while consistent with my own knowledge in several instances, will serve very well as a striking example of the

PROGRESS OF A MODERN ATTORNEY.

After admission, *if possible*, he raises 80l. or 100l. and being acquainted with the needy part of his late master's clients, he informs them if they can procure some bills of 8l. or 10l. each, he will discount them.

If he cannot by straining every nerve, raise the
necessary

necessary sum to set him afloat in his virtuous outset, he applies to some bailiff who has either realized a sum, or has money at command, to discount thro' his medium those bills that may be given him. The condition of this partnership is, the one is to bring actions upon all the bills, and the other is to arrest all the defaulters.

When these bills become due, the half of them are perhaps not paid; this is the *very* thing the attorney wants. He serves each of the parties with a copy of a writ, and theailable writs he transfers to the officer; if, at the beginning of a term, a *great* thing in his favour, because he has all the declarations drawn up in a trice. Now the poor distressed wretches, in order to stop proceedings, beg of the attorney, as an act of mercy, to accept a warrant of attorney, which is readily granted, though with *seeming* great reluctance. This warrant of attorney is generally given with a defeasance, and to pay so much per week or month. Upon default of the first payment, execution issues; and instead of 6l. or 8l. there are 10l. or 12l. costs to pay upon each bill.

To give my readers an idea of the profits of this copartnership, I hope the following *bona fide* bill of costs, and attendant expences will suffice.

When any person at present is arrested, he pays in the first instance as follows, if he bails the action on the same day :

		£.	s.	d.
Bail-bond	_____	1	1	0
Searching the office	_____	0	2	6
House	_____	0	2	0
	Carried over	£.1	5	6

Brought forward		£.1	5	6
Messenger	_____	0	1	0
Door-Keeper	_____	0	1	0
A Bottle of Wine	_____	0	3	0
Incidents	_____	0	1	0
		£.1	11	6

If defendant pays the money, immediately upon the arrest, he incurs the following expence upon each action.

K. B.	A. v B.	£.	s.	d.
Instructions and Warrant to sue		0	4	4
Drawing and ingrossing Affidavit of Debt, Duty, and Oath	_____	0	5	7
Bill of Middlesex and Fee	_____	0	10	6
Warrant and Messenger	_____	0	2	0
Paid Arrest	_____	0	10	6
Accommodation Fee	_____	0	6	8
Letter and Messenger	_____	0	2	0
		£.2	1	7

If the defendant gets another officer to take the writ, he pays one guinea fee additional, (*civility money*) besides wine, &c.—This expence, it is to be observed, forms no part of what are termed *costs of suit*.

If a warrant of attorney is accepted of, in this stage of the business, three guineas are generally demanded as costs upon each action.

If however it should so happen, that a man of spirit, one of the parties arrested, should reprobate this conduct, and give young Capias an idea that all hopes of future employment is at an end—he will not grant him and the acceptor of the bill the

the *indulgence* of a warrant of attorney: no! the fish once caught, the most must be made of them. The sheriff must be ruled to bring in their bodies, the defendants must bail above and justify in open court; and if any overtures are made to pay the money, the attorney is absent from home; for as yet he has no chambers. When he is met with, he is in such a hurry, he has not a moment's time to mind such trifling business as defendants; if they will meet him at Nando's coffeehouse, at such an hour in the evening, he will bring his bill if the money is ready. If he attends, he generally charges 10s. or 12s. over and above what the master allows;---if defendant won't pay it, it being now the last moment previous to demanding a plea, off he sets in great dignity, and adds 20s. or 30s. more the next day. What is the remedy?---taxation, and like every other taxation, it falls heaviest on the poor.

The defendant thus situated, must either serve plaintiff's attorney with a rule to stay proceedings upon payment of debt and costs, submit to the imposition in the first instance; or else employ an attorney to tax costs, which is worse than robbing Peter to pay Paul; because the common result of the remedy is, that defendant pays 30s. to save 20s. and will have 10l. to 16l. costs to pay upon each action, according to the different stages of proceeding.

Come! says Capias, this is a tolerable beginning; my capital is now encreased to 200l.* or there-

* There is an attorney in Berwick Street, Soho, wonderful to tell! who never took a farthing discount from his clients. I know also, that he has dissuaded many of them from engaging in law suits.

thereabouts in one term. My appearance* however is against me : I must descend from my garret, and take a chamber.

Two terms by discounting, and some pettifogging tricks, swell the capital to 300*l.* or 400*l.* therefore he must now keep a clerk to encrease respectability---a bailiff's son, if possible, because the father is a man of *universal acquaintance*. Now the consequential phrase of *My clerk--my clerk*--resounds in every company which he frequents.

His capital accumulating fast by discounting, &c. he begins to advance larger sums; would not take more than *five per cent.* for the world; but can recommend a very honest man who has some excellent woollen cloth, or a few pieces of Irish to dispose of; or some marketable fashionable watches, silk stockings, or some excellent wine, greatly under prime cost; only one half to be taken in goods, on which you are certain of a great profit; and the other half in cash, for two or three bills of 50*l.* each, with three or four indorsers---a mere form.

The distressed tradesman, hoping before two months shall have elapsed, that some nobleman or man of fortune will, by great importunity, prior to that period, be kind enough to pay *part* of an account of three or five years standing, accepts the terms;

* An attorney some years ago advertised for an assistant, who had regularly served his clerkship. No fewer than sixty-seven applied for a salary of one guinea per week, all elegantly dressed. The manner in which these gentlemen contrive to make such a respectable appearance, will be best understood by applying to those tailors who employ them to collect their debts.

terms; and finds, that instead of 50*l.* he has in the long run to pay 60*l.* 70*l.* or 100*l.* costs, for his want of punctuality*.

Now the young sprig of the law mounts his phaeton, keeps his girl and country house, and talks, gods! how he talks! of dukes, of lords, of horses and hounds, and of every species of fashionable dissipation: but should he recollect any of those unfortunate debtors starving in prison, who have fallen dupes to his villany, they are loaded with such opprobrium as to instil a general bad opinion of their principles!

If the young attorney at this stage of consequence, should hear of his late master losing a cause, if he is possessed of tolerable parts, he may improve this circumstance to his advantage. By serving his clerkship to him, altho' a respectable character, he has an opportunity of throwing out

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* This is by no means an exaggerated picture. It is a common practice for many peers and members of parliament to grant bills which they never mean to honour regularly. They ought to be informed, that the drawers of these bills thus discounted, have no more mercy shewn them, than if they were accepted by running dustmen; and the consequences are frequently ruinous to tradesmen. Besides, these harpies not uncommonly add fictitious names to the back of the bills, for which the distressed tradesman pays additional costs to the above amount.

The goods too, which the tradesman is frequently obliged to take in part of the bills, and which he is forced to sell to support his credit, are of such a quality, that if he gets one half, he thinks he has made a tolerable bargain. What is the consequence? Either from the noblemen or gentlemen requiring so long a credit, they must pay at a very great disadvantage, by the tradesman overcharging them; in which case he is forced from self-preservation to be dishonest; or, if the tradesman charges a fair price---the former, by their dilatoriness in paying, are accessory to his ruin.

some well-timed inuendoes as to his master's want of ability ; and after the cause is over, will have an opportunity of telling a number of companies, that he foresaw what verdict would be given ; that his late master took up the cause of action in a wrong point of view, very little to his credit as a professional man ; and concludes with saying, that if he had not made the law his study night and day during his clerkship, all the instructions he had received from him for five years, would not have been worth twopence.

It is astonishing, too, when in company with his clients, with what address an attorney will turn off the payment of a reckoning, whether at a tavern, coffeehouse, or even a public house---The circumstances or situation of his client make no impression on him---he burlesques every application for money with a laugh, or a shrewd hint, that his exemption will be ten times more in his way at a future period.

One or two thousand pounds thus accumulated, the next step is to open an account with a banker, sometimes two---two have their uses---as will be hereafter explained. Now he is out of the trammels of the bailiff---Forgetting the ladder by which he mounted, he often kicks it down, and gives his writs to another officer : for the sake of his reputation, he will not know such a man, detests such low fellows ; and for the best of all reasons---lest his pettyfogging tricks should come to the ears of his new connections.

Our attorney's next grand object is to improve his fortune by associating with those who in the outset of life would have despised him--young men
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of rank, who have dissipated their fortunes, and who have recourse to such harpies and their connections, as to afford a temporary prop to their circumstances, until the death of some rich relation shall enable them to wipe off debts perhaps to the amount of ten thousand pounds, for which they never received five thousand. Alas! it is a melancholy reflection, that want of prudence in the higher classes of society should place them on a level with the lowest and the vilest.

Now money must be raised upon mortgage, reversion, or expectancy. In all applications for cash, unless it be to a very capital customer indeed, he is only an agent; and therefore must do as all other agents do; that is, *make money*.

Another considerable source of wealth and professional reputation which will operate like compound interest, consists in being employed in bringing or defending those actions which will ultimately be brought into court---What a field for the exertion of genius, honourable and dishonourable!---To give my readers an idea of this in perfection, I must beg leave to digress in reciting a well-known story of an attorney and his clerk.

An attorney who had only two clerks, and yet made a fortune, entertained a predilection for one of them, who humoured every foible of his master, and who constantly attended him upon the northern circuit, where his connections chiefly lay. Tom was a good lad, because he could go thro' a great deal of dirty work, which had such an effect upon this worthy limb of the profession, that he told him he would put him in possession of the whole arcanum of the law, whenever the last year of his clerkship arrived.

Tom accompanying his master upon the circuit as usual, in the last year of his articles, reminded his master of his promise, upon their journey to an inn where they were to put up all night. The old gentleman agreed to fulfil his engagement upon this condition, that Tom should pay the expences of the evening, and add to the usual fare, two bottles of claret. To this Tom consented.

The attorney then told him, that whatever cause he undertook to defend, he must be sure to procure sufficient witnesses to carry him through ; as his own success and fortune had been acquired merely from his attention to the *law of evidence* in supporting his clients' interest. Tom, tho' he knew this before, thanked his master kindly for thus communicating the grand arcanum of the law.

The lawyer and his clerk when they arrived at the inn, fared more sumptuously than usual. But when the bill was called, it was in vain that the master urged Tom to pay the reckoning ; for profiting by the instructions of old Qui Tam ; he utterly denied the contract, exclaiming, " If I am wrong---call your evidence---call your evidence---I deny the existence of the contract in every iota."---But to return :

In short, the career of a modern attorney, if he be a prudent man, is finished by making a fortune ; and if he has a son brought up to the same profession, he can so contrive matters, as to leave him a rich inheritance, even if he himself chose to live up to his income in his lifetime, by bequeathing him all his unfinished law-suits, and by leaving his papers and securities in such a scene of confusion

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as to produce half a dozen of suits in chancery, and two or three hundred actions at common law.

This picture does not apply to every class of pettyfogging attornies. There are thousands who must confine their depredations among tradesmen, by multiplying arrests---by blasting their credit to get employment; and in going about from one public house to another, in order to foment strife, and generate law-suits.

Many a golden harvest have they reaped from the epithets,---*thief---swindler---liar, &c.* or *exchanged blows*, when the parties were overheated and in liquor. Tradesmen would do well however to beware of those fellows, attend to the damages given upon these trials; and not be misled by the artful misrepresentations of interested miscreants.

Every species of trifling litigation, the courts to their honour set their faces against, and generally give one shilling damages, as a proof of their detestation of those who advise the bringing of such actions. Besides, a respectable tradesman must appear in an awkward predicament when his character which he is so very zealous in defending, is perhaps unjustly aspersed by the opposite counsel, and valued at the low price of one shilling in a court of justice; while the attorney by swallowing up the damages, woefully convinces him his character is not worth *a farthing*.

I have received innumerable communications from several tradesmen and others of the impositions they have experienced from this class of pettyfoggers. One gentleman informed me of a poor man who was sued by an attorney in Ely Place, for 7l. who to shew his client how expert he

he was, run defendant up to 30l. expences in ten days or a fortnight's time ; and adds, " I am sure " if you publish but a very small part of the oppressive cases which have even recently occurred, you cannot sell your book for so small a sum as 2s. 6d.--as I believe it would make several volumes."

A few specimens of the lowest species of petty-fogging tricks by those who are *not* actually attornies, I deem it necessary to communicate to the inferior class who may peruse this treatise; as I wish to erect a beacon by my observations, to every rank and description of my fellow creatures: the vermin I allude to, are those who pretend to collect in small debts, by suing for their recovery in the Marshalsea, county and sheriffs' courts, and courts of request. These fellows ingratiate themselves with poor house-keepers in public houses, who recommend them to laundresses, ignorant women who let lodgings, &c. to collect in their debts.

The moment they are employed, the first thing they do is to make out a regular list of debts due to the party. This must be paid for. The next thing is money in advance for perhaps half a dozen processes.---The debtors thus sued, pay the money ; and the worthy gentleman absconds with the whole, to follow the same game at the other end of the town.

In this case the creditors must send round to their respective customers to prevent the payment of the debts to this excrescence of the law ; and this step may be attended with the loss of their best friends.

I advise

I advise the poorer class of people, when they have money owing to them, which they are determined to sue for,

“ Upon the hazard of the die,”

to go to a regular officer of the Marshalsea court, and give him a list of four debtors at once, each of whom shall owe above 40s.; and if the parties are able to pay, they will have, in that case, a very good chance to recover without expence to plaintiff.

If the debts are under 40s. and acknowledged by the parties, instructions must be given to the regular officers of the courts of request to attend. If the debts are controverted, or not allowed to be due, the plaintiff must attend in person.

ON

ON

THE PRACTICE

OF A

MODERN ATTORNEY.

THE practice of a Modern Attorney may be divided into---

FAIR PRACTICE,

COMMON PRACTICE,

KEEN or SHARP PRACTICE,

AND

QUIRKING PRACTICE.

With respect to the first of these practices, I have in the course of this work, made several cursory remarks on it; but as it does not properly come within my cognizance (being followed only by the respectable part of the profession) I must confine myself to the discussion of the three last. I will, however, previous thereto, beg to give those attornies this caution: Never to take the recommendation of a stranger, in bringing an action; because they may be suing an honest man
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at the suit of a rogue, which has often happened---Besides, they may, in case of a supersedeas, have the costs to pay. Another circumstance is, they may get into disgrace. To avoid this, strangers ought to be properly recommended, and give a written authority to sue.

I.

COMMON PRACTICE.

A MODERN Attorney, in making out a bill of costs, ekes it out with a number of ingenious articles, by dint of imagination, to each of which he annexes 6s. 8d. being the easiest way of raising a pound ever yet invented. If these occur too frequently, and the party murmurs at the repetition, recollect whether he has it in his power to bite; for according to this single circumstance, he must be treated. Besides, 6s. 8d. may be added by the attorney, which was not meant to be charged; and this may be taken off, to evince his generosity.

In case, however, any young attorney may not be possessed of ingenuity enough for this branch of the profession, a few specimens, actually taken from bills of costs which have been paid, may not be amiss by way of initiation; for instance,

Several attendances on defendant, on	£.	s.	d.
terms of compromise, when he at			
last named a Mr. A. whom he said			
would secure the debt	-	-	o 6 8
Attend to enquire after Mr. A.	-		o 6 8
E			Attend

Attend on Mr. A. at my chambers on this business, when I found he did not chuse to engage - - -	£. s. d.
	o 6 8
[Mem. You must endeavour to dissuade Mr. A. from having any thing to do with deft. for more reasons than one. —He may employ you afterwards.]	
Attendance on deft. thereon - - -	o 6 8
Do. on deft. on fresh propofals of com- promise, when he named Mr. B. to join him in a fresh note of hand, and pay costs - - - - -	o 6 8
Do. on plaintiff thereon - - - - -	o 6 8
Plff. agreeing to these terms, provided B. was approved of, attend to enquire	o 6 8
Attendance on deft. informing him of plff.'s concurrence, at my request	o 6 8
Deft. having wrote a consent for plff. to sign, whereby he was to agree to take the note proposed, attend plff. thereon, who said, upon enquiry, B. was not a safe man, and that deft. had tricked him so before - - -	o 6 8
[Here fix the sheriff, and proceed against the bail—Then go on.]	
Attendance on deft. for another com- promise, when he earnestly entreated proceedings to be stayed, and pro- mised to pay all costs down	o 6 8
Attendance on plff. on same account, when he at last consented to take a note as above, at six weeks, provided bail joined	o 6 8
Attending bail thereon, who refused to join - - - - -	o 6 8
	Attending

	£.	s.	d.
Attending deft. informing him thereof	0	6	8
Attend deft. and bail when note was signed, and matter settled - -	0	3	4
Drawing note at fix weeks -	0	2	6
Stamp - - - -	0	0	6½

Other dextrous methods also, of coining, not high-treason, are, to make appointments to settle *that* which you know will not be settled--by being rather before your time than after, not waiting five minutes for the parties--leaving your name, and setting off in such a hurry as if the Cabinet-Council were waiting for you!

Independent of the above shameful expence, what can compensate for that anxiety of mind which totally deranges a person labouring under accumulating costs of suit? what can compensate for his loss of time, his various and unavoidable expences?---Defendant now thinks of nothing, he dreams of nothing but law---his virtuous endeavours are absorbed in the consideration of the payment of lawyers' bills, however unjust; and the profits of his trade, intended for the support of his family, and which ought to be laid out in their education, in rearing them to a knowledge of religious and moral duties, are swallowed up in the vortex of that infamous law system which is a disgrace to our national economy.

When any imposition or extortion takes place among manufacturers, tradesmen, or shopkeepers, it is quickly discovered, and punished by employing another person :---but the impositions sanctioned by law, whether practised in the spiritual court, in the public offices under the name of *fees*, or by the attorney at the head of his profession, down

to the pettifoggers, who settle their bills of costs over a pot of porter, are not to be once called in question, but by taxation---a *remedy* (shameful term!) which is ninety-nine times in a hundred, worse than the disease.---Beside, the distressed tradesmen, who is either willing to establish a credit, or struggling to support it, views with a virgin's feeling and with a virgin's eye, every suspicious glance at that credit, as a stab to the interests of his family; hence many thousands of pounds are received by attornies, the very height of imposition, at the expence of tradesmen, who, rather than submit to have their names brought forward, pay the *extra* costs in mournful silence.---What opinion he can entertain of that government which suffers such enormities to exist, I leave to the many millions who are thus continually robbed!

That the profession of a lawyer is honourable *in itself*, I readily allow. Every branch of a profession which has for its object, the equal distribution of justice to all, ought not only to be honourable, but lucrative to those employed.---At the same time the profession should not in itself be capable of dignifying individuals; unless those individuals dignify the profession. If this axiom is just, I wish to be informed why so much ridicule is cast upon the idea of an *honest attorney*.

In order further to illustrate the *Common Practice*, discounting attornies consult bankers as to the responsibility of those tradesmen whose bills go thro' their hands; and even their acquaintance are sounded as to their business and connections. If the drawer and indorser are any way doubtful, one or two indorsements on the bill are required; and

and shameful to tell ! often two or three fictitious indorsements are added to the bill when not duly honoured. Then begins the tragedy ! Five or six actions are frequently brought upon a bill of 10l. or 12l. To discount bills of 60l. or 70l. would not answer the purpose of the attorney ; because in giving cash for small bills that are not paid, he can *generate* sixty actions, which at a very moderate calculation will produce 200l. or 300l. which is very good interest for advancing 70l. or 80l. in one term.

I knew five actions brought by a worthy attorney who lives in Villiers Street, Strand, upon a poor little bill of 10l. The acceptor went to prison, the indorser was bankrupt, two fictitious indorsers were added, and the drawer loaded with all the costs.

“ Come, take heart ; (said the attorney) as this
 “ is a hard case, I will take your warrant of at-
 “ torney for the whole costs, upon payment of
 “ the debt, and give you an undertaking to re-
 “ fund those costs which I shall recover from the
 “ other indorsers, the moment I can lay hold
 “ of them. All you have to do, is to leave 5s.
 “ or 10s. 6d. unpaid of the bill in my hand. I’ll
 “ proceed ! I’ll lead the swindling scoundrels a
 “ dance for leaving such an honest man as you in
 “ the lurch. They shall remember me.”

Be not deluded, tradesman. Pay the costs the first instance ; whether it be for Mr. James or Mr. Thomas ; otherwise you will have occasion to remember the honest attorney and his refunded costs as long as you live.

I happened once to mention this circumstance of fictitious indorsers, in a company where
 a pub-

a publican, who had been coachman to an attorney, said it was a common practice for the clerk, himself and the footman, 'to indorse the bills that were returned unpaid ; that they were enjoined secrecy, and had now and then half-a-crown given them.

I also know several attornies who send bills for payment in the morning, and if the money is sent at night, leave orders to their servants not to take it ; the master and clerk not being at home, and the bill not left out. Uniformly next morning there are either arrests or copies of writs. If the tradesman has no more money than the amount of the bill, as it is with difficulty often he can muster that, then follow two, three, or four declarations: for bills which do not fall due just before term commences, will not be discounted. At all events, those which do, are easiest turned into money for evident reasons.

An acquaintance of mine detected one of these *worthies* in the following manner :

Having a bill due in an attorney's hand, he called ten times in the course of the day, in order to pay it, but was always told he was not at home. At length, he watched him to his house, called soon after, but he was again denied. Hearing somebody speak in the parlour, he went in, and saw the attorney in company with another person whom he waited on to the door. In the interim, the tradesman casting his eye over two or three writs, saw one of them actually made out for himself, and another for the drawer, for the identical sum he came to pay, and which to a certainty would have been served on both parties next morning.

Com-

COMMON PRACTICE, CASE I.

A SPECIMEN OF THE INDULGENCE GRANTED
BY SOME ATTORNIES.

A tradesman in bad circumstances had granted a bill, which became due before Michaelmas term; he could not pay it: he was arrested, pleaded his losses, his family, &c. and only craved time.—Time was granted, and a worthy attorney in Ely Place, was ordered to take a warrant of attorney for debt and costs. A cognovit however, was granted in lieu, at the distance of two terms, which, by the by, was irregular, and the sum of two guineas per month, was to have been paid. About July, however, the attorney would wait no longer. Defendant mustered up what he imagined to be the balance, and employed his own attorney to settle matters. Judge what was his astonishment, when the plaintiff's attorney pretended that, altho' he had dropped the action in the first instance, he had sued out a copy of a writ, when not being able to find defendant, (who could be found every day,) he had issued an alias and a pluries, and proceeded regularly to judgment; thereby loading him with immense costs, notwithstanding defendant had been paying him instalments upon cognovit all the while.—Defendant from poverty was obliged to accept any terms, and pay all.

CASE II.

AN USURIOUS CONTRACT.

A gentleman possessing a salary under government, being in want of a temporary sum of money,
applied

applied to a money lender who referred him to an attorney. This last gentleman pretended he had not the money, but could recommend him to a jeweller, who would accommodate him, provided the bills had two or three good indorsers. Bills were accordingly procured and approved of, the business done, and the goods sold.---Unluckily they did not turn out so productive as was expected, realizing little more than one third: but this deficiency was productive of a harvest to the honest attorney; because, as the purpose was not answered by discounting the bills, the parties were all arrested, and plunged into tenfold more difficulty than before: a good lesson to young tradesmen who fly to these vermin with a view of propping, *pro tempore*, their credit. Much better had they go to their creditors at once, and tell them the genuine truth, however much it may hurt their feelings. They will come off much better in the end, than by trusting themselves in the hands of harpies, whose only aim--is *gain*.

To enumerate the various frauds which have been committed, by real and pretended money-lenders and advertising discounters, would be sufficient to fill a thousand volumes--Suffice it to say, that class of swindlers ought to be avoided as a pestilence.

CASE. III.

A more infamous transaction than even the preceding, lately took place; where a gentleman, in order to procure cash for two bills of 350l. each, went to a tradesman and offered to take
goods

goods for them, upon a discount of 40 per cent. These goods produced only the sum of 224l. or thereabouts.

These and many other gross frauds of a similar nature, hold forth the necessity of instituting a Society for Raising Money by Subscription, with a view to relieve gentlemen and tradesmen from temporary embarrassments, who have good security to offer. It might be managed in such a manner as to render essential service to many industrious characters who are oppressed by law expences; and the whole concern might be conducted for a very trifling sum.

CASE IV.

A poor widow happening to know a clerk to an attorney in distressed circumstances, generously trusted him with linen for shirts, taking the debt of six guineas, at one guinea per year, until it was reduced to two guineas; this she applied for just at the time he commenced business for himself. Payment being refused, the attorney was sued at the instigation of another; appearance was put in, attorney knowing the widow was not able to proceed; nonprossed the action, and of course obliged her to pay the expences to the amount of 4l. 18s.

CASE V.

A poor hard working taylor, employed an attorney to recover the sum of fifty shillings, who proceeded against defendant, until the expences amounted to twelve guineas. The attorney then

F

run

run in debt to the taylor upwards of six pounds, received debt and costs, and absconded, leaving poor snip to look out for the payment of *his suit*.

CASE VI.

Extracted from a Pamphlet entitled,

SPECULATIONS UPON LAW AND LAWYERS.

“ A poor man, with ingenuity enough to entitle him to bread for himself, his wife, and a large family, in any country save his own, brought me, not long since, the sentence of his banishment—summed up in an attorney’s bill of costs.

“ The original debt was somewhat above fifty shillings, for a few months schooling for two of his children; but the attorney had swelled the reckoning pretty handsomely; and, before the poor debtor was aware, he had between thirteen and fourteen pounds to pay; for which he confessed a judgment upon his empty counter and shelves; but was obliged to fly for it.

“ But the schoolmaster must pay the attorney; otherwise his desks and forms will go to pot next; for it is an incontrovertible maxim in law, *That the Law must never suffer any loss*.

“ How absurd to suppose, that a poor man who cannot pay a just debt of fifty shillings, can raise five times as much, to feed a rapacious attorney!

“ A poor man is frequently ruined, in due course of law, without knowing any thing of the matter. The cause, as the attornies call it, goes on: *Currat lex*, says *Ignoramus*. The mill, when once set a-going, never stands still: term succeeds

ceeds term, *a termino ad terminum*; which alone is sufficient authority for attornies to add costs to costs, and distress to distress; which finally end in execution and imprisonment.

“ For one cause that is brought to a hearing, hundreds are settled, by paying enormous costs to attornies, on both sides.”

CASE VII.

A tradesman who employed an attorney to recover some debts, applied to him also to discount a few bills. This being done, when some of the notes became due and not regularly paid, the attorney sued out writs against the parties, when he was only desired to write letters. In short, he laid so lustily among the defaulters, and all for the good of his client, that one was bankrupt, two went to prison, some few paid, and others run away. But in the long run it ended in an execution in the client's house. This is so very common a case, that I would advise young tradesmen always to give a written authority to their attorney to sue, and to wait the result of one law suit, before they begin another.

II.

KEEN or SHARP PRACTICE,

CONSISTS in letting slip no opportunity of swelling a bill of costs, whether the defendant can pay or not, provided the plaintiff can. The attorney in pursuing this practice procures in a few terms the appellation of a very *keen clever fellow*

fellow---is remarkable for getting in money very quick ; and there would be nothing wanting to put an end to *his* practice, altho' he generally gets forward in this immense wilderness of iniquity, the capital, except a knowledge of how many clients he has ruined in the course of a few years.

A keen practitioner of the law is remarkable for the number of bonds and warrants of attorney he is in possession of---the number of judgments he has entered up * ;---the number of persons he has sent to jail, (not unfrequently both plaintiff and defendant)---and for the number of bankruptcies which by the severity of his practice he has occasioned. By some he is termed a *butcher*, by some a *docquet hunter*, and by others a *cutter-up*; but all acknowledge he is a man of no feeling or principle, and will stick at nothing to get money.

I have frequently known an attorney of this class, promise to stay proceedings in the most solemn manner, in order to snap a judgment ; and the party laughed at and ruined.

KEEN OR SHARP PRACTICE, CASE I.

I once knew a tradesman turning upwards of 20,000l. a-year, in a flourishing trade, ruined by
the

* It is necessary to inform those who have given bonds and warrants of attorney, to pay by instalments, that whatever money is due, a *gentleman* of *keen* practice cannot, whenever he chuses to enter up judgment, legally *levy* for the whole sum. Because upon application to the court, and paying those instalments which are due, defendant will be reinstated. A want of the knowledge of this circumstance has ruined thousands,

the advice of an attorney---made bankrupt, that the attorney might get a job; and who afterwards paid 20s. in the pound and all expences.---And even *this* is not an uncommon case.

CASE II.

I also knew another attorney advise a tradesman to make one of his debtors a bankrupt, who had thirteen in family, with a view of serving his client and himself too.---Said he, "If I can prove an act of bankruptcy, I shall work the commission, and you will be an assignee." The measure thus concerted was agreed on-- the difficulty was to prove an act of bankruptcy when there was none. The virtuous attorney supplied the deficiency by suborning a wretch to accomplish this horrid purpose; but by the exertions of the defendant, it was frustrated.

CASE III.

A. owed B. a considerable sum of money, and lodged certain securities which were payable only to himself, in B's. hands. When A. had nearly settled with B. the securities were refused to be delivered up. This circumstance coming to the ears of an attorney, whom A. did not employ, he informed him that by sending a letter to B. he would be frightened into a compliance, and that it should cost him nothing. Leave was granted; the letter, however, produced no papers; and the attorney conceiving himself authorised to proceed, filed a bill in chancery against B. without A's. knowledge. B. replied, the lawyer then
wanted

wanted money, and applied to A. who was thunderstruck at the demand, and gave him 20l. The attorney knowing all the circumstances of the case, proceeded, and then called on A. for 40l. more.---By this time A. was so entangled that he must proceed, or be imprisoned for a contempt. He now flew to his own attorney, who told him he was intrapped, that he must pay him his bill, and take the papers out of his hands. This done, the tradesman had to pay 16l. additional, in all 76l. for giving the attorney leave to write a letter.

CASE IV.

A Mr. D. owed a debt of about 9l. which he was unable to pay. The costs amounted to above 30l. in being sued by one of those attornies called *butchers*. D. being hard pressed, granted a warrant of attorney for the debt, including a bill of costs of the attorney's own *fabrication without taxation*; agreeing to pay one guinea per week, which was punctually paid until the debt was reduced to 2l. 1s. Upon default, this worthy *gentleman* the very next day entered up judgment in the absence of defendant, who had gone to the country for the benefit of his health, and levied for 7l. 12s. 6d. *

Defendant

* There is a regulation that prevails in the courts of law in Ireland, which prevents any attorney recovering costs upon an execution or warrant of attorney, above the debt for which execution issues.--In this country a defendant is often charged to the amount of 6l. or 7l. costs for a defalcation in the payment of the last guinea upon a bond and warrant. This may be law; but it is inconsistent with every idea of justice and humanity.

Defendant was a hard-working industrious character, with a large family. He died broken-hearted, from being so repeatedly robbed by the law practice, under the denomination of costs of suit.

CASE V.

To ATTORNIES.

An easy way of making your client believe, that you are a very clever fellow.

As it is often the case, that a defendant, previous to the return of the writ, proposes terms, desire plaintiff to inform him, that he pities his case, does not want to distress him, and that he will stop proceedings. Defendant thus lulled into a fatal security, thinks it unnecessary to give in bail above. If defendant is a poor but *safe* man, after having ruled the sheriff, (a step you must never omit, however unnecessary), fix the bail; it is ten to one if defendant can pay costs, therefore, he can't stop proceedings upon the bail bond: by this means you will in a trice more than treble your gain---

“ Let the injur'd rail;
He cannot spoil your dinner.”

O that some guardian angel would predispose some right honourable, honourable, baronet, or man of fortune, debtors to the unfortunate tradesman, to send him *even* a ten pound bank-note, in part of a long standing account, to enable defendant to stop law proceedings at this tremendous crisis! it would prove a little fortune to him.
The

The fact, tho' strange, would stand thus : that defendant, being unable even to pay the costs, cannot stop proceedings against his bail---nay, I have known many instances where all *three* could not instantly muster the money necessary to stay proceedings on the bail-bond. The seasonable supply therefore of £10. would have saved from 30l. to 50l. additional costs.*

If defendant can even stop proceedings on the bail-bond, and cannot pay the debt ; in law it is, the farther in, the deeper : the prospect is horrible ; but there is no retreating---A plea is demanded---Defendant is now forced to put in a *sham* or a special plea.

By a *sham plea*, which is in fact only an answer to the substance of the declaration, defendant charges plaintiff with receiving money and goods from him frequently above the amount of his demand, coals, wine, cash, &c. or any thing that comes into the attorney's head.

If

* The day labourer who never was in possession of five guineas in his life-time, is much happier than any tradesman who is involved in law.---The former makes no provision for old age---he can go to the work-house, and be supported at the tradesman's expence ; he pays no taxes---if he is sick, he can go to an hospital, and his situation exempts him from that anxiety, solicitude, and care, which surround the greater part of housekeepers. ---The latter is borne down with high rents, and high taxes ; and if he meets with an unmerited loss, the very circumstance which ought to entitle him to the indulgence of his creditors, is perhaps the signal for an arrest, which frequently ends (in a train of consequences) in his ruin ; and in the vale of years, should he be reduced to a work-horse, there is scarcely any difference in the treatment of that person, who, perhaps has paid poor's rates for thirty years together, and the verriest vagabond existing.

If he puts in a *special plea*, by his attorney he adds absurdity and contradiction to falsehood, for that is a plea of judgment recovered, by which defendant states, that the plaintiff had in another court in a preceding term recovered a judgment against him, which still remains in force ; a period of time, at which perhaps the debt was not even contracted.

Both these are gross fictions, and are calculated to protract the payment of a just debt : but they have their uses---they give defendant time to collect in his book debts, upon which he may have 15 or 20 per cent. profit, while he is paying 200 and 300 per cent. for a short indulgence : besides, he is acting the part of a good subject by contributing to the necessities of the state ; both these pleas being engrossed upon sheets of paper called treble penny stamps. And government are no doubt very much obliged to the ingenious lawyer who invented them.

Defendant being pushed, proceedings creeping on, is advised to bring his writ of error, to get over to the long vacation. This he thinks is a great point ; more especially as he will have an opportunity of punishing *pro tempore* his plaintiff, who will be saddled with 9l. costs or thereabouts. ---But if in this stage of the business, the proceedings upon the bail-bond had not been stopped, the costs would have been at least, including all expences 60l. upon a ten or twelve pound bill---and which a ten pound bank-note paid at the time above alluded to, would have prevented.

Thus, both attornies in possession of their costs, gain a complete victory ; and act upon the pure principles of christianity : for Christ enjoins, that

if any man sue thee at the law, and take thy coat, give him thy cloak also." Say the attornies to their clients, "As thou hast disobeyed the commandment of thy Saviour, we will take the whole suit, and punish you into the bargain."

CASE VI.

A tradesman in Windwill-street, owed another 10l. he was sued for it by what is called a *trimmer* of an attorney in Newman-street, who fixed the bail, and saddled the parties with 50l. costs: In consequence of this severity, the whole parties were unable to pay, and at length a warrant of attorney was accepted for debt and costs to be paid in instalments of 10s. 6d. a-week; altho' seven guineas were offered in the first instance, but rejected at the instigation of the lawyer. Thus this species of attornies by their nefarious practice increase the payment of weekly and monthly sums, until they amount to a very handsome annuity in the course of a year.

CASE VII.

A cause was lately brought forward in court, which displayed a species of proceeding than which nothing can better display the rapaciousness of a Modern Attorney.- One party brought an action against another in ejection; the worthy Mr. Qui Tam, instead of comprising the concern in one action, brought thirty-six *separate* actions.

Lord Kenyon declared that since his coming to the bar, he never heard of a more scandalous proceeding

ceeding---and according directed the whole to be put into one record,

CASE VIII.

Every term in 1793 and 1794, has produced instances of the malpractices of attornies, and so very gross as to prove to the legislature the necessity of a thorough reform in the practice of the law. We have it as a proof that one brother actually preferred a charge of felony against another, on purpose to defeat justice, by with-holding his evidence. It is also on record, that the worst species of swindling, defraud, downright robbery, and every thing short of murder, has been carried on, all under the sanction of LAW. But while the courts, particularly the King's Bench Court, have been exerting themselves to bring pettyfoggers to justice, we must lament the want of ability in thousands of aggrieved parties, in bringing these mauraders to justice. These excrescences ought to be prosecuted for the sake of society, at the suit of the Crown.

CASE IX.

A. sued H. a writing master, for the sum of 3l. 5s. which H. did not dispute, only craved time--which was agreed to by A.---Capias, however went on, and seized on the furniture for 30l. 17s. in execution. H. knowing nothing of the law, nor how to remedy himself, paid the money.

CASE X.

D. owed K. a baker, 10l. D. was bankrupt, and never got his certificate, from poverty. K. imprisoned him twice, and the attorney got out of him in the course of ten years 28l. He at last died in the work-house.

CASE XI.

F. was persuaded to sue for 2l. 7s. 5d. in the King's Bench, where the defendant's set-off was 19s. 6d. The matter was in litigation upwards of sixteen months. The plaintiff was cast, and paid above 70l. costs, while the defendant's extra costs amounted to near 15l.---This appeared so incredible to me upon first hearing, that I waited upon plaintiff, who lives at a considerable distance, who confirmed the above particulars; adding, that he was six months absent from his business, before he could get the matter compromised.

This action was owing to a grand trial of skill between two rival attorneys, who lived in the same neighbourhood.

CASE XII.

An apothecary, at Richmond, owed a tradesman One Guinea, for which he was summoned at Croydon. Execution issued, which encreased the debt to 2l. 3s. or thereabouts.---Instead of arresting defendant, he was persuaded by an attorney, in an evil hour, to serve him with a copy of a writ. This done, the apothecary carried the worthy limb of the law, three guineas, which were all he could

could muster. This was accepted in part ; and a given time allowed to pay the remainder of the costs ; for declaration was filed. Apothecary did not keep his time.---Attorney proceeded to judgment, squeezed as much money out of him as he could, and then sent him to the King's Bench prison.

Application was then made to plaintiff for balance of costs, who could not pay them ; attorney then served him with a copy of a writ, run him up to 27l. costs---got as much out of him as he could, and sent him to the Fleet prison.

Of all the vexatious suits that can be instituted by any individual against another, none are worse than the laws respecting *trespasses*.---Surely they must have been framed, when the Guardian Angel of England was asleep : For example,

CASE XIII.

At Ipswich some time ago, a baker living next door to a taylor, and having always his oven hot, allowed poor Snip, in order to save his coals, to warm his goose in his oven, *gratis*. It so happened, that Snip having affronted the baker over his cups one night, he gave him notice before a public company not to warm his goose in his oven in future, otherwise he would bring an action against him.

Snip thinking this a pot-valiant threat, went in the absence of the baker, and warmed his goose as usual ; but the baker returning before the goose was heated, he threw it into the street, went to an attorney, and enquired whether he had not a good action against Snip for a trespass. The attorney enquiring

enquiring whether he had *given notice* to the taylor not to warm his goose, the baker informed him he had, before a public company, "That will do!" says the honest lawyer. The act says, if in case of trespass, a farthing damages are found, upon a proper notice being served, defendant must pay all costs. This cause was tried, one penny damages were found, and the defendant ruined for *warming his goose* in the baker's oven.

Thousands of similar instances have occurred, which tend to prove, that the law practice in the pretended preservation of property operates as a curse instead of a blessing to society.

III.

QUIRKING PRACTICE.

THIS is confined to a set of miscreants, whose practice is in every body's mouth; and I have known and exposed, as far as in me lay, by name, those who have been guilty of such practice. Were the five hundred thousandth part of the iniquity which this tribe have been guilty of, universally known, I am clearly of opinion, it would endanger the safety of the whole body of lawyers, *worthy* and *unworthy*.

It is remarkable that the genuine, and what is called, Fair Practice, has been often made subservient to the purposes of this tribe, in scheming and carrying into execution a regular and well concerted plan of villany. Yet this is no mystery---every *honest attorney* knows this to be the fact.

CASE

CASE I.

I once knew a farmer deftrained upon for a considerable fum, owing for rent in the month of June. He went to a quirking attorney, who for a fum of money replevied. There was no difficulty in having bail accepted who were not worth one farthing, a very good understanding subfifting between the attorney and deputy fheriff.--The crops growing ripe, a bill in the exchequer was filed.--The farmer got in the whole flock, fold it before plaintiff's face, and before Michaelmas term, the farm was a wreck, and all the parties had absconded.

CASE II.

A RECIPE FOR AN ATTORNEY TO ENCREASE PRACTICE.

Spread out the declarations in all actions brought by you on a large desk or counter, if you have room enough, with the names of plaintiffs and defendants wrote large enough that any one who runs may read.---This will produce the ufual question.--“What! do you know fuch a one?” “Know him! I hope you have nothing to do with him.” “I am forry to hear you fay fo.” “He is the greateft rogue living, he is not worth one farthing.” Now Mr. Attorney is your time. Embellish your ftory.--It is a hundred to one, but the bait takes; convert the defendant, as the lawyer did Partridge in Tom Jones, into one of the greateft hog-merchants in England; although the trefspafs was committed by one poor folitary pig.
You

You know you have two strings to your bow ; and if one of your clients does not know any of the people you are suing, perhaps they may be acquainted some of their connections.

Or, if perchance you go to a coffeehouse or public house, be sure to introduce the subject of arrests, naming the persons you have been so reluctantly obliged to proceed against, collect a few anecdotes as to the defendants' connections, and make your own use of them.

Whatever officer you employ, give him a hint that it will be of service to you, if he will shew a pocketful of warrants in a public house. As an apology, he has only to say, that altho' it is much against his feelings in one respect, he hopes as they are all safe men, no person in company will, if they know them, take any notice of the circumstance.

CASE III.

A. v. B.

The defendant is a very sober industrious man, and worked at a patent fan-light manufactory, in High Holborn.

Having saved a little money, he furnished two rooms in Tottenham-Court Road ; in the one he lived, and the other he unfortunately let to the plaintiff and his wife at 3s. 6d. a-week.

After the plaintiff had been there a few weeks, he gave the defendant a swindling draft for nine guineas, and requested he would take his rent, and give him the change ; defendant refused taking
it,

it, but was prevailed on by the plaintiff to keep it until he might have an opportunity of paying it away---on making enquiry, the said note was found to be not worth the stamp it was wrote upon.

Plaintiff continued to lodge at the defendant's, until 21st October last, when both himself and wife ran away from their lodgings; forgetting to pay two guineas, that were due for twelve weeks' rent, leaving a few trumpery things, and the said draft behind them.

Two or three days afterwards, the defendant was arrested at the suit of the plaintiff, for 250l. and upwards, in trover; and being taken to a lock-up house, informed his master of the circumstance.

Mr. Underwood, rather than suffer his man to be sent to jail, for an unjust demand, directed his attorney to inquire into the truth of it, which was immediately done, and found to be a diabolical scene of iniquity, to extort a few guineas from the defendant, thinking him incapable of getting bail for so large a sum.

The worthy plaintiff, however, was frustrated in his design; for Mr. Underwood not only bailed the defendant out of custody, but gave orders to his attorney to defend the action at his own expence, and if possible to punish the plaintiff and his attorney in an exemplary manner; this not being the only action he had brought of a similar nature.

The cause went on, and notice of trial was given for the sittings after the last Hilary term, at Westminster Hall; but the defendant knowing with whom he had to deal---gave a rule to enter

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the issue; concluding that both plaintiff and attorney could not raise the cash at that time necessary for the occasion.—He thought right; and the issue not being entered, a judgment of non-prefs was signed: the defendant's costs have been since taxed, which of course falls on Mr. Underwood, as the attorney is an invisible agent, and rare to be met with.

On examining the property left on the premises, it actually was not worth five shillings, and yet the defendant had the audacity to swear it was worth 250l. and upwards.

Had this cause come on to be tried, there is no doubt, but Lord Kenyon would have added one more to the list of gentry that have been struck off the roll of attornies for mal-practices*.

What

* The unparalleled impositions of attornies in town are only to be exceeded by those who practise in the country.—The innumerable writs which are there issued, upon the most frivolous pretexts, are truly alarming, and in the highest degree oppressive. By the enormous bills of costs, thousands are ruined; and the people from their ignorance, are glad to compromise matters in dispute almost at any price.—This species of iniquity irritates the minds of the people, not only against attornies in general, but also against Government, who never have taken any step for remedying the abuse in question. Although our governors cannot find time to regulate the abuses in jurisprudence, yet even in Turkey, the subjects have access to the sultan every Friday, to complain of *their* grievances; and these are quickly redressed, *without fee*; depending on *viva voce* evidence before the grand vizir; and if intricate, are by him referred to some officer under him.—That, however, would I confess be impracticable in England; as a thousand grand vizirs could not find time to attend to the fiftieth part of the just complaints that would be preferred.—Either John Bull must be a contentious wicked fellow, or else there must be some strange and unaccountable defect in the Laws by which he is governed.

What pity it is, that there is not an order issued for bringing plaintiff, defendant, and the attorney face to face before a judge, and the property produced on such bare-faced impudent actions, which are now so frequently practised by some low attorneys !

CASE IV.

BY WAY OF CAUTION TO SEAMEN, OR THEIR REPRESENTATIVES.

A seaman in London, having about 12l. wages to receive, happened to inform a pettifogger of the circumstance; but added, he was ignorant how it was to be got. The attorney immediately offered his services, took possession of the credentials, and set off to Portsmouth in a post chaise, where the money was payable. When he arrived in town, he gave Jack a guinea, and presented him with a bill containing a long string of items, to account for the remainder of the money.—This poor fellow ought to have gone to the navy pay-office, Somerset Place, where he would have received his money upon return of post from Portsmouth, for a few shillings.

CASE V.

P. G. & Y. were partners in an improvement of a manufacture, for which they obtained a patent, and by which, had they been unanimous, in all probability, they would have made a fortune. Differences having arisen among them, recourse was had to a famous quirking attorney; of course they were considerably augmented. At his instigation,

bills in equity in abundance, were filed against each other, the business went to wreck.---one of the partners was sent to prison, and died shortly after of a broken heart, one was tried at the Old Bailey for seizing his own property, and was bankrupt, and the third beggar'd.---The costs amounted to no less a sum than 1700l. and the invention fell to the ground. Three families were thus ruined by the intervention of an attorney; and if the half that common fame asserts be true, the same man has not ruined less than five hundred families.---I wish it could be ascertained how many millions have been ruined by the tribe!

CASE VI.

An attorney, one evening at a Mrs. B——'s, (a public house,) took out a person in company, and told him, he wanted to speak to him in the yard, where he was overheard to say, "You must be a witness to-morrow on a trial." "What am I to swear to?" "I will write it down, and you must get it by heart." This fellow was afterwards struck off the roll; but I am afraid too many of his stamp remain.

CASE VII.

EXEMPLIFIED IN A NEAT WAY OF TRICKING TOWN CREDITORS.

In your peregrinations, Mr. Attorney, as many of you may be compared to that very respectable being, who goes about seeking whom he may devour, you have frequent opportunities of knowing
who

who are distressed. Always offer your assistance; and if you find a man of some property, dubious about his certificate, because, perhaps his accounts are not the fairest in the world, suggest to him, that you can put him on a plan to bilk all his creditors, provided he will pay you well.

You know that emissaries are never wanting, where there is money. You know also that connections are kept up with country folks, for this very purpose. Couple the town villain, a *gentleman* if possible, not properly within the meaning of the bankrupt law, with the country one—as partners—horse dealers, cutlers, wholesale grocers, or any thing---buzz about the country, that Mr. Jones, whose affairs were notoriously bad, has got a London partner, with a mint of money--the cockney being soft:---this must be done by the country agent.

Then circulate as a piece of great news in town, that Mr. Such-a-one has gone down to the country, to receive a legacy left him by a rich relation. After a month has elapsed, let your country agent strike a docquet against the partnership---procure the certificate in the usual way, by fictitious creditors, pocket 100l. a-piece, and then let the London fools go a hunting after the legacy.

Mem. Be sure to abuse the London *gentleman* your client, in every company, as the greatest villain you ever knew---but take care, that his property does not amount to such a sum as may subject you to an investigation before a court of justice.

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CASE VIII.

AN EASY WAY TO POCKET A FEW HUNDREDS.

To ATTORNIES.

When you are desired by a client, to sue a tradesman for any sum above an hundred pounds, trump up a story of his intention to go to America or the West Indies; and that instead of suing him, he had better take out a commission of bankruptcy. State the advantages which will accrue to your client; viz. that he will be certainly appointed acting assignee, and have the amount of the effects in his hands for at least a year, and even eighteen months, or three years, which during the present scarcity of money, will be of great service to him. If it be objected, that the tradesman never committed an act of bankruptcy, you know how to remedy this defect: It is only getting a *gulper*. When the affidavit is filed, the business is soon done.---At any rate, if the bankruptcy be superseded, you are certain of increased costs; even this is an object. If, however, the bankruptcy proceeds, what a glorious harvest opens!

Whenever the books are in your custody, as solicitor, get your clerk to make out a list of all the debts above 40s. and without giving any intimation by letter or otherwise, serve all the debtors indiscriminately with copies of writs or otherwise, making them returnable the next day, which will intitle you to your declarations. To those who cannot discharge the debt instantly, grant time; taking warrants of attornies, to pay by instalments, upon having your costs *down*. Upon the first default, enter up judgment; this will bring three guineas more upon each action at least. By this means

means you may contrive, to extend your connections in this line, where there is a large concern ; the assignees, too, under the commission, astonished at the expedition you use in collecting the debts, will conceive you to be intitled to the appellation of *a very keen clever fellow !*

Should your client, the acting assignee, experience any pecuniary embarrassment, during the time he is in possession of the bankrupt's effects, offer gratuitously to get in his debts ; which in all probability will be accepted. Here a new field of gain opens to your view.

Whenever you acquire a sufficient knowledge of his finances, and secured his confidence, employ some of your emissaries to acquaint his principal creditors of the ticklish state of his affairs.--- This will bring on an eclclaircissement highly to your credit as an honest man ; and your first client not knowing of your duplicity, will naturally request you may be solicitor, in case of a bankruptcy---the very thing your new client wants---You may then, you know, play the preceding game over again---and laugh at your former client.

CASE IX.

A circumstance of a curious nature happened in the county of Nottingham some time ago, as to the ingenuity of an attorney, which, while it in the first instance created a very serious alarm, by being detected, occasioned a considerable degree of merriment :---This worthy gentleman having taken a liking to some small estates in the neighbourhood, where he learnt the titles were rather dubious, in order to get possession, he made himself

self master of the names of the former proprietors—drew up a number of deeds, ingrossed in imitation of the hand-writing in use a century or two back, with the names of witnesses, which were to be found in the parish register. Claims were set up, and money received by way of compromise, by this ingenious Parchment-Affassin; and, if report is true, possession was taken of several estates. Upon investigation, however, of one of those claims, it was found that the *Honest Lawyer* had drawn the deeds himself, and given them the appearance of age by baking them in an oven, which he had constructed in his own house, on purpose.

CASE X.

The ruinous effects of the present law practice cannot be more fully exemplified than in the case of a vinegar-manufacturer, who lived in Old-street Road. This person kept his carriage, got a prize of 20,000*l.* in the lottery, subscribed very liberally to public charities, particularly to that of the Sons of the Clergy, and was amassing a fortune; but happening to be involved in law, he paid in a series of six years, no less than 30,000*l.* costs, and was reduced so low as to be under the necessity of blacking shoes in the New Compter, for a livelihood.—I believe, this unfortunate man was cleared by the last act of insolvency.

CASE XI.

An attorney, who keeps his carriage, in the neighbourhood of Lincoln's-Inn, was employed by

by a very particular friend, to recover the sum of 4000l. near twenty years ago; accordingly he commenced an action or actions against the party, and when he was certain of receiving the money, he told his client that the recovery was very doubtful, and that the costs were already very heavy—near 500l. “But,” added he, “I will give you 1000l. for the whole debt, and run the risque of recovering the money myself.” The client thinking he had an honest man to deal with, and not suspecting that a person upon whom he had conferred many obligations, would deceive him, consented to this proposal; when, lo! the whole debt and costs were paid into court the very next term, and the attorney pocketed all, laughing in his sleeve at the credulity of the plaintiff.

The client finding himself tricked, filed a bill in equity against this *worthy gentleman*; and I hope the issue will prove satisfactory to every honest man.

Twenty-four years in law for the recovery of a just debt! and afterwards have recourse to Chancery to make an attorney refund!

In this country, the life of man is too short; and his purse, nine times in ten, inadequate to the task of recovering his property, in an appeal to the Law; which, we are told, equally protects the *rich* and the *poor*.—*Credat Judæus!*

CASE XIII.

A Mr. M. upon assaulting a woman, was served with a shilling warrant, and the husband, although a relation of Mr. M.'s, was so inveterate, that

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every expensive step was taken to enhance costs. This contention was taken advantage of, by the two attorneys who were employed, and who contrived, after a long series of litigation, to encrease the expences on both sides to near 120l. Mr. M. referring the matter to arbitration, and the chicanery of the one lawyer prevailing over that of the other, the award was made that he should pay all costs. This man made shift to pay his own attorney; but he suffered four years imprisonment in Newgate, for the costs of the opposite party; his business was totally ruined, and he was obliged to take the benefit of the last act of insolvency.

CASE XIV.

*Extracted from the Print called THE TIMES,
August 1, 1794.*

DISTRESS, MISERY, AND CRUEL OPPRESSION.

A Mr. J. who has a wife, and three infant children, was on the 5th of November, 1792, served with a copy of a writ, for a debt of 3l. 8s. 6d. He instantly applied to the attorney, representing his inability to comply with immediate payment, and received assurances, that his pitiable situation should be represented to his client, and that his (the attorney's) influence should be made use of in his behalf; but so insincere was this declaration, that after having waited on the attorney, by his own directions, near twenty times, and for which he was so cruel as to make a charge, defendant was informed by him, that he had at length seen his client, who was willing to take the debt

debt on easy terms. Half-a-crown per week, with security, were the terms agreed on; when to the utter astonishment of the defendant, a bill of costs nearly double the amount of the debt, was presented to him. However, there being no other alternative than signing a warrant of attorney, it was of necessity complied with, and the first instalment made on the 5th January, 1792; between which time and the 6th March, 1793, three days only were omitted, so that a second half-crown never became due; and notwithstanding that the payment was made, and the receipt given on the 6th, yet on the 12th, although no instalment became due till the 13th, the attorney was hardy enough to enter up judgment, and put a person in possession two days. Being, however, convinced of the illegality of this proceeding, he withdrew the execution, and continued receiving the instalments till the whole of the debt and costs were paid, which ended on the 7th of April last; when a demand was made to the solicitor, to resign the warrant of attorney: This he refused to do, without a further payment of 6l. 0. 4d. for the expence of entering up judgment, which had been illegally done. This *gentleman's* persecution did not end here; for having first suffered two terms to elapse from the discharge of debt and costs, he then took defendant's body, on a writ notailable, and left him without any other redress than a deposit in the hands of the sheriffs of the sum of 5l. which he knew he would be unable to advance. The consequence is, that defendant who is in a deep decline, continues in confinement, and his business going to ruin, being left to the care of his wife, who is but lately recovered from her in-lying.

CASE XV.

VIVIAN v. JONES.

IN A MATTER OF BANKRUPTCY.

About twenty-one years since, a commission of bankruptcy was taken out against the plaintiff's father, and the defendants were appointed assignees under the commission. After the effects were converted into cash, and 20s. in the pound on all the debts paid, there still remained a considerable surplus in the hands of the defendants.

Mr. Vivian, the bankrupt, died about nineteen years ago, leaving the present plaintiff his heir, who not being able to bring the defendants to any settlement, and understanding they had several thousand pounds of a balance in their possession, filed a bill of account against them eighteen years ago.

The Lord Chancellor made a peremptory order, "That a full answer to the plaintiff's bill should be put in within fourteen days---and further, that the defendants should answer interrogatories as to the balance now remaining in their hands."

The defendant's counsel pleaded strongly to have the time extended to the 20th of May, 1794. The Lord Chancellor, much to his honour, declared, "that they had already taken too long a time to answer; and that, if they did not comply with the order, an attachment would issue against them for a contempt."

OBSERVATIONS.

I am astonished that the Lord Chancellor does not order, which, by the by, is not prohibited by

by the act of parliament, that no creditor should be assignee to a bankrupt's estate. Innumerable are the inconveniencies which flow from the present custom. I have known rivals in trade ruin one another. I have known numbers made bankrupts, that their principal creditors might be propped for a few years---and I once knew a ship-builder, offer 15s. in the pound, which was rejected---he became bankrupt, and at the end of eighteen years, his assignees, rivals in trade, failed also, and paid 1s. 6d. in the pound.

There ought to be a board appointed to act as assignees to every estate, solicitors of probity annexed to that board, and the money arising from bankrupts' effects ought to be deposited in the funds---and divided among the creditors, agreeably to the now existing laws.---At present there is nothing but a scene of confusion and perjury; and after a tradesman has perhaps spent five or six days at different meetings, he is astonished to find at the distance of two, three, four and six years, that the dividend he receives is not actually worth the time he has spent, independent of the original debt. For my own part, I have proved under a variety of commissions of bankrupt, to a very considerable amount---one dividend in the hands of a banker, produced 7s. 6d. another 5s. one 6d. and the rest nothing: but where there was a first dividend, I never saw a second, being always told the residue was not worth dividing.---The last residue, however, proved to be a very handsome sum, which, besides the interest arising from the sale of the bankrupt's assets, paid the assignee very well for his trouble.

Reader,

Reader, I have selected the foregoing cases, as a *few* specimens of the enormities that are daily committed under the denomination of *Law*. But were fifty thousand more cases to have been added, they would not constitute a fifty thousandth tythe of those that have existed, even of a blacker dye.

Talk of national grievances, when such a sink of iniquity as this exists, *unredressed*!—I am filled with indignation on the one hand, and pity on the other.—I forbear further comment.

CHAP. II.

On ARRESTS.

THE practice of arresting the person of a free-born subject, by *Capias*, has been so ably descanted on by many writers, and so clearly proved to be *contrary* to the principles of the *law* of this country, that it is almost unnecessary for me to attack this hydra.

For the satisfaction, however, of my readers, I will insert the following extracts, from two of our greatest lawyers :

Blackstone says, “ Every man’s house is looked upon by the *LAW*, to be his castle of defence and asylum, wherein he should suffer no violence ; which principle is carried so far in the *civil law*, that, for the most part, not so much as a common citation or summons, much less an arrest, can be executed within his own walls.”

The great Coke also declares, “ a man’s own house is his safest refuge. *Domus sua cuique est tutissimum refugium.*”

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Those who want further information on this subject, may consult MAGNA CHARTA, the famous Horne, or the Petition of Right, granted *even* in the reign of Charles I.

To enumerate a few of the mischiefs which flow from the practice of arresting, I beg leave to state the following fact :

In the first place, one man may arrest another and ruin him, without having a just demand of one shilling upon him. I once knew a foreigner, ignorant of the laws of this country, who had a demand on a person for 300*l*. who finding he was likely to be sued, arrested the foreigner for 900*l*. In consequence of this, he was sent to the Fleet prison, where he fell ill of a fever, and was so worn out with disease and poverty, not being able to defend the action, that he was under the necessity of taking the benefit of an act of insolvency for a debt he never owed.---The plaintiff went abroad. This is in fact, first hanging a man, and then trying him afterwards.

I am acquainted with a tradesman, to whom an attorney owed 80*l*. upon bond. The money being due for many years, was at last peremptorily demanded. The consequence was, that payment being delayed from time to time, the tradesman sued him---a bill in chancery was filed ; but pending this bill, the worthy attorney sued out a writ for a larger sum, in a fictitious name against the plaintiff, brought the action to issue, and then dropped it. This was practised so often, that from misrepresentation to his creditors, the tradesman was made bankrupt, and the worthy limb of the law, never paid a farthing to this day.

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A rich man may have a just claim, tho' small, upon a poor man; but he shall set up as an unjust one to a large amount, which the other is not able to litigate. "If," says he, "you include my unjust claim, I will give you time to pay both--If you will not accede to my demand, I insist on immediate payment; or take the consequence." On refusal, he has recourse to the Capias, and may run defendant to as much expence as if he had actually paid the *unjust debt*.

In short, as I have proved that the Capias is unknown to the common law of this country, and is an encroachment upon the liberty of the subject, I cannot do better in illustrating this subject, than by inserting a quotation from a very sensible writer.

He observes, that "Every individual has it in his power, under the common privileged abuse of personal arrest for debt, to be the immediate executioner of his fellow !

"A designing man, under the mask of friendship, may entice an unwary person into his books; promise him time for payment--and, notwithstanding, throw him into prison next hour !

"Any one may gratify his revenge upon another, through the medium of a slip of parchment !

"There are shops where they are publicly sold, like common traffic--Nobody knows you, nor cares any thing about you--You have only to go to one of those, and kiss a nasty book, worn out with beastly thumbs and lying lips--pay your money (no questions asked) and come your way !

"Shall it be at the option of one man, to seize upon

“ upon another instantaneously---to distract his
 “ business, destroy his market, ruin his credit, and
 “ hurry him to prison without a hearing?---This
 “ in a free country---in a commercial country
 “ too ?

“ Is he to be imprisoned first, when he stands
 “ charged with no other trespass but debt ; and
 “ heard, it may be, some three, or six, or nine, or
 “ twelve months after---at the option of the plain-
 “ tiff ?

“ What can be more inhuman, than to throw,
 “ at once (in an instant) a just debtor into the
 “ same situation with the most profligate felon?---
 “ in every respect the same, save fetters ?

“ But his case is still harder than that of the
 “ hardened thief, or recreant traitor---who has
 “ undergone an examination ; and, upon the
 “ judgment of the magistrate, stands committed.

“ To make him over to a set of merciless vil-
 “ lains, called bailiffs ; who are in general a dis-
 “ grace to the name of officer---and look rather
 “ like hangmen and tormentors, or hired assassins
 “ ---than the sober ministers of justice.

“ To leave the honest debtor, newly dragged---
 “ without a minute's warning to provide against
 “ such an exigency ; which, it may be, he fore-
 “ saw not---to leave him (newly dragged, I say,
 “ from his habitation, family, business,) in the cus-
 “ tody of such a crew!---shut up in a cell belong-
 “ ing to the caitiff catchpole ; secured by double
 “ bolts and bars---subject to the taunts and inso-
 “ lence of the abandoned minions of his power---
 “ wretches without bowels !

“ Is the liberty of a free man of a free country ;
 “ or of a free citizen of any country, to be held so

“ cheap, as to lie at the mercy of such shameless
 “ and remorseless villains, who live by profligacy,
 “ and make a trade of human misery, of sin and
 “ cruelty !

“ But lawyers have no cause to complain on
 “ that score, but much the contrary ; for there
 “ the ruin of thousands commences. Suit begets
 “ suit, and action quickens action !

“ The *Capias* is the glory of the English law-
 “ yers, and no less the disgrace of the English
 “ law.

“ Besides, lawyers are exempted ; tho’ divines,
 “ commissioners of the peace, and physicians are
 “ not. The dirtiest pettifogger, who has no cause
 “ to plead but the common cause of the distress
 “ and destruction of his kind ; which he pursues
 “ with unwearied diligence ; can boast a privilege
 “ that the worthiest subjects of England (the peer-
 “ age and the people’s representatives excepted)
 “ cannot---FREEDOM FROM PERSONAL ARREST
 “ FOR DEBT.

“ Again, let us consider this reproachful mat-
 “ ter for a moment---

“ Shall it remain in the power of one subject,
 “ at the instant of his will and pleasure, to de-
 “ prive another of his liberty---to immure him---
 “ to make him over to the tormentor ; who may
 “ deny him the use of pen, ink, and paper ; the
 “ benefit of a messenger ; the conversation of his
 “ friends---and all this under the colour, iniquity,
 “ or ill provision of the law ?

“ What Englishman doubts this serious truth ?

“ May not any man, as the law, or rather the
 “ abusive practice, stands at present, and is in
 “ daily usage, either by himself, or with the aid
 “ of

“ of an attorney, swear a false or disputable debt;
 “ and thereby obtain a warrant, for any sum,
 “ against another, who owes him little or nothing
 “ ---it may be, not the twentieth part of what he
 “ has sworn to---or whom, perhaps, he scarcely
 “ ever saw:---and, upon giving the same to a rasc-
 “ al, who bears the title of *officer* *; shall not the
 “ injured party thereupon be arrested, imprisoned
 “ ---it may be assassinated---or gagged, and car-
 “ ried out of the kingdom?

“ Have we not a memorable instance of a hor-
 “ rible effect, produced by this egregious oversight
 “ in our law, concerning personal arrest for debt
 “ ---enough to make Britons, inhabiting that part
 “ of our island called England, tremble!--and
 “ foreigners quake, as if seized with the horrors
 “ of an *Inquisition*, or *Bastille*!--and surely enough
 “ to have alarmed any wise legislature, jealous of
 “ the public freedom, and no less of the freedom
 “ of every free individual, to guard against every
 “ possible mischief in future?--Yet does not the
 “ law stand, for the most part, as it did?

“ Was not a foreign nobleman, known by the
 “ title of the Marquis *De Fratteaux*, who fled to
 “ this kingdom (as it was said, and generally be-
 “ lieved) to avoid the resentment of an incensed
 “ father, upon some family difference--and after
 “ having resided a considerable time in this land
 “ of liberty, wherein all breathe the breath of free-
 “ dom--as well BLACKS as WHITES, according

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“ to

* With submission to this writer, neither the Sheriff nor
 his officers are to blame; as ninety-nine times in a hundred,
 they are totally ignorant of the cause of action; and, in fact,
 have nothing to do with it.

“ to the determination of a noble chief justice--
 “ was not that gentleman, somewhat above thirty
 “ five years ago, seized by a couple of *kidnap-*
 “ *ping* bailiffs; armed with the authority of a
 “ writ, whereto was sworn a large sum of money
 “ against him--a debt which he had never con-
 “ tracted?

“ Was he not, upon that pretext, taken from
 “ Marybone, where he lodged, to the house of
 “ one of the assassins--thence, by the said ruffians,
 “ put aboard a vessel, and by them conveyed to
 “ France?--since when, he has never more been
 “ heard of.

“ Was any particular inquiry made after those
 “ villains? one of whom was, within these few
 “ years, and may be still living in a neighbour-
 “ ing French sea-port?

“ Ought they not to have been demanded
 “ sooner than robbers, coiners, forgers of bank-
 “ notes, or even murderers?--as having brought
 “ a scandal upon the executive part of our law,
 “ under colour whereof, they had perpetrated a
 “ crime, for which they should have been pur-
 “ sued to hell's gates for their destruction!

“ The fate of *Fratteaux* might be frequently
 “ acted over again--Why not?---It would have
 “ furnished a pretty story for an historical play
 “ or tragi-comedy, had it happened about the be-
 “ ginning of the last century.

“ And if such mighty mischiefs rarely happen---
 “ as crimes of greatest turpitude, like comets, blaze
 “ not every day---it argues the vilest of the people,
 “ bad as they are, to be better than that law, that
 “ leaves an opening to them to commit the most
 “ detestable offences.

“ But

“ But there are many misfortunes, innumerable
 “ evils arising from that fell mischief, that crooked
 “ channel, which few contemplate, and still fewer
 “ endeavour to remove.---’Tis true, they gene-
 “ rally light upon the poor, and those who are
 “ without means to redress themselves.

“ Law is expensive---so that the poor must be
 “ contented to sit down quietly with their inju-
 “ ries, lest a worse fate befall them. What can
 “ a man do, either as plaintiff or defendant, who
 “ has no money? for there’s no going to market,
 “ even *in forma pauperis*, without it.”

One principal reason why so many thousands of the accursed Capias issue, is because the nobility, gentry, and members of parliament, which last are exempted from its effects, do not from extravagance, or something worse, pay their debts as already observed. Millions of accounts stand over from year to year unliquidated; hence, distressed tradesmen are forced to raise money upon fictitious paper---which bills getting into the hands of money-lenders, discounters, bailiffs, &c. who discount on purpose that they may bring actions---are productive of the most dreadful consequences even to those tradesmen who would be opulent were they to receive the amount of their just claims.

Want of punctuality in creditors of the above description, who promise payment without any intention to take up their bills when due, forces the tradesmen to such destructive means in the raising of money, that accumulated costs not only deprive them of their just profits, but frequently rob them even of the amount of the goods
 sold ;

fold; hence it is very common, that a man becomes a bankrupt, capable of paying 30s. in the pound, independent of costs*.

What shall we say, however, of those members of parliament, who screening themselves by their privilege, shall resist the most pressing importunities of their creditors, and suffer them either to become bankrupts or go to prison, and allow a return upon a Distringas to go into the Sheriff's office, with a broom, a piece of coal, a sedan-chair, a set of teeth with gold springs, a pair of satin breeches, or even a brace of puppies, and laugh at the inefficacy of that law, of which they themselves are either the hereditary or elective guardians!† These are no fictions; they are facts, for the truth of which I can vouch.

Let any man review this picture, lay his hand upon his heart, and not deplore the abuses which exist in the equal distribution of justice.

Nay, I will go even farther: I have known tradesmen,

* Government seems to have lost sight of the generally received axiom, That the strength of every state consists in the number of its inhabitants; because, by tacitly winking at the enormities committed by attornies, the nation is insensibly drained of its artificers, who forced from this country by *Costs of Suit*, are obliged to seek an asylum abroad, to preserve their hard-earned pittance from the fangs of the law.

Who can blame them! Although generally loaded with opprobrium in flying from this species of oppression, were the sentiments of these men known, there can be very little doubt but they would pay every farthing they owe, were they not loaded with such expences as no exertion in industry is capable of combating.

† I once knew a nobleman's effects seized, when the father claimed them, and dared the sheriff to sell; by which means the plaintiff lost his debt.

tradesmen, rather than affront those customers, (being noblemen and men of fortune) in insisting upon payment of money, go to discounters, and submit to the hard terms of half money and half goods---goods, which when valued at 20l. were not in reality worth above 8l. and which the tradesman not having any use for, was obliged to part with at a less sum. I have known, too, several tradesmen ruined, for daring to insist upon men of fortune settling with them; and many have been the instances of individuals glutting their revenge upon shopkeepers who have sued them, in requesting all their acquaintances, as a particular favour, not to deal with Mr. Such-a-one; and for alledged reasons, almost too diabolical to conceive.

It is a very mistaken idea that men of fortune generally entertain, in tradesmen having enormous profits on their goods or work; and that, therefore, they need not be so anxious about paying for them. I aver, from a tolerably general knowledge of trade, that the profits attached to most businesses are very inadequate to the expences of housekeeping, where a man has a large family.

Many thousands are ruined, from presuming on the punctuality of their customers; and many thousands have had reason to curse the day they have had so many *Honourables* and *Right Honourables* in their books.

When a tradesman is drove to such extremities from the want of punctuality in his customers, his name becomes so hacknied among those attorneys who are in league with pretended discounters, that he is quickly known to the whole of that honourable corps: from those who purchase damaged

maged goods, and place substitutes in shops to retail them by discounting bills---down to those who are the humble procurers of bills of a dubious nature, from 10l. to 30l. with five or six indorsers, and *one* good man among them.

Ruin thus advancing by rapid strides, the tradesman finds home *no home*; he begins to be remiss in executing orders; he spends a great deal of time in running after and collecting trifles; he is too frequent at the public-house, and finding his peace of mind nearly destroyed from repeated arrests and impositions, is possibly prompted to make use of his remaining credit, to procure goods, with a view of getting the better of his difficulties. Experiencing, however, the struggle to be ineffectual, he becomes bankrupt, to preserve himself from prison*; but in endeavouring to escape from one evil, he encounters, perhaps, a worse. All his asseverations of honesty and good intentions, are disbelieved by those creditors who never received any of his money; he is upbraided with his conduct for the last two or three years, during which time (however honest he may be) he was in a state of distraction; he is not unfrequently denied his certificate, and sometimes, after surrendering his all, thrown into jail,---His family must shift as they can.

Were

* I know a tradesman, who had literally surrendered his ALL under a commission of bankrupt; and during nine years, was unable to muster money enough to obtain his certificate. What a ridiculous law must that be, first to require a surrender of every thing, and then deny a man his certificate, unless he can pay from twelve to fifteen guineas! Many thousands of similar instances have occurred. At present, however, the majority of bankrupts seem to pursue different steps.

Were the people of England *obliged* to sing their laws (which are called the pride of Englishmen,) as the people of Athens formerly did theirs from choice, and were they to annex the effects of the law practice, the performers would be distinguished by tears and distraction; were the victims of the law, too, exhibited in the streets, in a groupe, the intentions of the rioters in the year 1780, in endeavouring to wreak their vengeance upon lawyers, would certainly be realized in consequence of the exhibition. But if Aristotle is right in asserting, that the reason why the laws of Athens were sung, was, that the people might not forget them, there can be no occasion for the introduction of this custom in England; because every party concerned, remembers the effects of the law *as long as Memory retains her seat.*

An insuperable objection however exists, against the singing of the Laws of England, even if any good could result to the community, from such a regulation. They are so voluminous, that they would exceed ten cart-loads; no man could digest them in his life-time, and it would occupy all the ballad-singers for ten years, to rehearse them. Blessed country! where thy law, and the principles of that law, are endeavoured to be made so very plain!

A strange species of jurisprudence must confessedly exist in that country, where the laws are of that complicated, abstruse, and inexplicable nature, as to be capable of setting at defiance the utmost ability to define, the utmost cunning to combat, and a very considerable share of property to resist its encroachments.

Perhaps I may be excused in asserting, that the
L English

English in their laws, resemble the race they spring from. Heterogeneous, motley and multifarious, were their ancestors---their laws resemble them. It is a great mercy for the rest of Europe, however, that in this instance we are singular.

The law-practice in England, however much it ought to be reprobated, is, in many respects, preferable to the law-practice in Scotland. There a spirit of litigation frequently operates with such violence, that expence is disregarded when victory is the consequence. The lawyers, too, taking advantage of this circumstance, have been ingenious enough to introduce *printed* Cases, Correspondence, Replies, Duplies, Triplies, and Quadruples, until the respective parties are so bewildered, that they not unfrequently forget the original cause of action. There, a law-suit lasts in proportion to the length of the clients' purses, and it is very common to hear of actions being in Court from ten to thirty years. Owing to this, a very shrewd remark was made by a farmer in Scotland, who had brought an action of damages for an assault and trespass, and who in the course of fifteen years, had printed nearly as much as the history of his own country, to explain his case, and answer the allegations of his opponent. Having occasion to employ the fourth council, or advocate, three having died *pendente lite*---"Pray tell me your case, my friend." "My case was a very good one, as I and every one conceived, in the beginning of this cause; but the ground has been so often shifted, that I am totally ignorant of the merits of my *now* suit; but," added he, throwing down a load of printed papers, "you may make it out of those."

In

In fact, the difference between the Scotch and the English practice appears to be briefly this: that in Scotland, the lawyers keep their clients ignorant of the law, but print all their proceedings; while, in England, the attornies keep us ignorant of their proceedings, but print the regular practice. Both are anxious to make the public believe that there can be nothing fairer than their practice; while the issue of the whole convinces the deluded parties, that the law takes care of none *but her own offspring*.

CHAP. III.

ON SHERIFFS' OFFICERS, THEIR FEES, &c.

SHERIFFS' Officers have long been loaded with obloquy and abuse. The picture exhibited of them, in the year 1771, in a letter to John Wilkes, when sheriff of Middlesex, by an attorney, is so horrible, that for the sake of human nature, I cannot believe any such characters ever existed. If, however, one or two execrable wretches as are pointed out, were guilty of such practices, perhaps the exposure of the facts at that time, might operate as an amendment in their behaviour.

It is a truth, however, that while the officers of the sheriff of Middlesex are more respectable now than formerly, the pettifogging tribe of attornies, have not only increased in numbers but in infamy. Besides, with regard to bailiffs, it is not fair to class a whole body of men together, and to brand them indiscriminately, as guilty of mal-practices.—Several instances of their huma-

nity have come before Lord Kenyon; but he has as yet had no proof of the humanity of pettifoggers.

It may be necessary, as a caution, to intimate to the unfortunate arrested debtor, that I have known letters opened by an officer, and messengers dispatched to creditors, that he might be loaded with additional actions; I have also known artful insinuations made, to prevent his being bailed; the intended bail terrified into a refusal: the bailiff absent himself, and object even to good bail, in order to encrease expences; unnecessary delays made in searching the office—a most infamous custom in itself; and, in short, every artifice made use of to *sponge* upon the distressed; independent of the stale trick of the officer trumping up a string of lies, and retailing them to plaintiff and his attorney, with a view to incense both parties against the unhappy man; and thereby preventing them from coming to terms, until his doom is fixed by a general knowledge of his confinement.

I even knew an instance where an officer made an offer, to two persons who were bail to the sheriff, and who could not justify, of procuring bail above, for a sum of money, when the intention was to render the defendant. This would have procured him five guineas, and inevitably ruined the tradesmen. Although this virtuous plan miscarried, upon enquiry, I found that many have been ruined by similar tricks.

When any person is arrested, “Mum” should be the order of the day, unless to his own attorney, or his own friends.

The *legal fees* of officers, (of which more hereafter) are too small; and the severity of some of the
the

the officers may proceed from the heavy losses they sustain, from the mistaken confidence they place in unworthy individuals. The defendant who forfeits his word to an officer, should recollect, that he is literally guilty of a defraud, and adding ingratitude to that defraud; besides steeling the minds of a class of men, who already are armed with too much power. Another inducement might be urged for their fees being legally increased, *viz.* that it is the most worthy class of officers who run the greatest risques; I do not mean, however, to include those who, influenced by five pieces of gold, like G. A. Stevens's head of an orator, can neither see, hear, nor speak, when properly applied.

Another proof may be adduced that the laws made for regulating officers fees, is also a mockery of the unfortunate. The existing law orders, "That no bailiff shall take more fees than what the law allows, which is 4s. 6d. for a bail-bond, upon pain of incurring a penalty of £50. with treble damages to the party aggrieved." Ten shillings and sixpence is allowed by custom. Let us examine how this operates;---the officer demands a guinea for a bail-bond; which is contrary to law---Suppose he takes the defendant's word until the return of the writ, when bail must be given---he demands two guineas; or if he gets another officer to take the writ, still defendant pays two guineas.

If defendant resists this claim, he will save his money at the expence of much time and inconvenience. Sound policy, however, would dictate to him, not to fly in the face of a custom which has *not* the sanction of law; for if he should afterwards be arrested, the officer may so contrive matters

matters as to lodge defendant in Newgate, for abridging him of what he deems his lawful fees.

In cases of arrests for debt, trespass, &c. no door may be broke open, or latch drawn, to execute the process. *Plowd. Com.* 322.

Every attorney is to enter his warrant of attorney in every suit, commenced in a court of record, on pain of forfeiting 10l. and imprisonment, &c. and he shall not be allowed any fees laid out for counsel, &c. unless he hath tickets thereof signed by such counsel. Every attorney shall give to his client true bills of costs, under his hand. If he delays his client's suit for gain, or demand more than his fees, the client shall recover costs and treble damages, and the attorney be disabled to practice. 3 Jac. 1. and 13 W. 3.

If any attorney's bill upon taxation be reduced a sixth part, he shall pay a penalty of 50l. and be disabled from acting*.

A bailiff's fee for an arrest by the 23 Hen. 6. cap. 10. was no more than 4d. In the courts of the city of London, 1s. and so late as the year 1730, 5s. was the usual fee by custom. A guinea for every 100l. as now demanded, is an imposition.

By the 32 Geo. 2d. an officer's fee for a bail-bond is fixed at 4s. 6d. including stamp. This act directs that any officer exacting more, shall be subject to a penalty of 50l. and treble costs†.

If

* I have known defendants charged 15l. and 20l. costs, when no step had been taken, except the arrest; all the proceedings being fictitious. In one instance, I once knew near 40l. overcharged in one bill.

† An action was brought upon this statute, in Aug. 1784, at the assizes held at Wells, in Somersetshire, Gye v. Biggs. Upon application of plaintiff to the court, the sum was mitigated to 20l.

If a bailiff demand more than his just fees, when offered him, and detain any person thereupon, it is false imprisonment. And if he takes fees not warranted by law, it is *extortion*, which by the common law, is punishable by fine and imprisonment; and the manner of proceeding against him is by indictment at the quarter session. By stat. Westm. 1. 30. 3 El. 1.

A bailiff must lay his hand on a person, otherwise it is no arrest. And if he have a warrant from the sheriff or a *Capias*, and *send another* to arrest any one, such arrest is illegal, vide Mod. reports, vol. 12, p. 73. An arrest on a Sunday, is a void arrest, inasmuch as the party may have an action of false imprisonment for it. Vide Mod. rep. vol. 5, p. 95.

An action does not lye against an officer for refusing bail; but for not conveying the party, before the sheriff, in order to put in bail, 2 Mod. 32.

If the sheriff or his officer shall take any money or reward for the omitting any arrest or attachment, it is extortion; and the sheriff or officer shall forfeit 10l. to the king and informer, 23 Hen. 6. c. 10.

The sheriff was committed to the Fleet prison, for taking illegal fees, 2 Brownl. 283.

The sheriff of Suffolk was imprisoned for taking a guinea, there being only 2s. due to him; and he returned two guineas to plaintiff, on the stat. 3 Edw. 1. c. 26. and was then discharged, 3 Keb. 714. pl.

Notwithstanding the foregoing statutes, and the determination of former courts, I am of opinion,
that

that as custom has established the following fees, they would be allowed : viz.

	£.	s.	d.
Officer for an arrest in Middlesex	0	10	6
In any other county	1	1	0
Special Capias	1	1	0
Levying execution	1	1	0
Executing a writ of possession	1	1	0
Man in possession per day, if he finds himself	0	3	6
If found by the house, per day	0	2	6
If a person goes to prison, the following is the expence of a writ of a Habeas Corpus,			
Stamped piece of parchment	0	5	6
Fiat in term, 6s. 8d. vacation	0	7	8
Sealing	0	0	7
In Middlesex, the fees returning the writ of Habeas Corpus, are,			
If in one action	0	9	4
If more than one action, for each action the sheriff takes	0	2	4
If the defendant is in Newgate, pay goalers warrant to deliver defendant to bailiff			
	0	2	4
If the Habeas is returned in court, the charge is as under :			
Judge's clerk for commitment	0	4	0
The master	0	2	0
The chaplain of the King's Bench prison	0	2	0
Clerk of the papers	0	1	0
Crier of the court	0	0	6

Note. You pay allowing the writ of Habeas Corpus, at the palace court, 5s.



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